

Fwd: More CR 595

Lounds, Amy (DEQ) <LOUNDSA@michigan.gov>

Mon 1/26/2015 6:59 PM

To: Burdick, Melanie <Burdick.Melanie@epa.gov>;

Melanie,

Per our discussion today.

Thanks,

Amy

Sent from my iPad

Begin forwarded message:

County board balks at lawsuit, wants backers revealed

January 21, 2015

JOHN PEPIN - Journal Staff Writer (jpepin@miningjournal.net) , Mining Journal

[Save](#) |

MARQUETTE - The Marquette County Board voted Tuesday not to support the effort to sue the U.S. Environmental Protection Agency over its objections to permitting the County Road 595 construction project.

The 3-2 vote against the lawsuit was based on no public disclosure of parties funding the lawsuit. Commissioners Gerald Corkin, Karen Alholm and Joseph Derocha supported the motion against the lawsuit. Commissioners Bruce Heikkila and Bill Nordeen cast the dissenting votes. Commissioner John DePetro was absent from the meeting.

Alholm added the topic to the county's agenda Tuesday as a late addition, after she said some statements were made at Monday's road commission meeting contending county board support for the lawsuit.

"The lawsuit itself, when funding sources are not divulged, simply goes against my grain and I wanted to make sure that my position was clear and asked for this opportunity to make a statement," Alholm said.

Nordeen said he "whole-heartedly" supports the road commission effort to sue the EPA.

"If I was in their position, I would do exactly the same thing," Nordeen said. "I think that the EPA was wrong in denying this permit. I don't think it's right when a local road commission decides to construct a road and the federal government comes in on a little technicality of some kind and stops that. I think that's wrong. I think the federal government oversteps their bounds regularly and I think if you don't stand up to them at some point, it will get worse and worse and worse."

Derocha, who was most recently the Humboldt Township supervisor before his election to the county board, said the township was in full support of the County Road 595 project and its predecessor Woodland Road project.

However, Derocha said the battle to build the road has been lost.

"Efforts that were put forward by this county board, the local units (of government), the state and all the legislators were gallant, but we failed," Derocha said. "I'm a little troubled with the fact that when we lose, we can regurgitate this 2 1/2 years later and are now going to sue the federal government."

Derocha said he shares Alholm's concerns about undisclosed financing for the lawsuit.

"I believe there should be some transparency," Derocha said. "The road commission received a legal opinion on their behalf to go into closed session. I think that's wrong. This is a public issue. It should be publicly put out in the light."

Derocha said he's concerned about a backlash and the unforeseen consequences for suing the federal government. He said the EPA is still reviewing the Humboldt Mill's disposal of tailings.

"I am very concerned about how this type of action can affect Humboldt Township, Lundin Mining in its efforts to continue to process product and disperse tailings in the subaquifer," Derocha said. "We simply have to take things under consideration how this might affect everyone in the future and I don't think the road commission board has done that."

Nordeen said he understands the fear of the EPA.

"But, we cannot fear our own government," Nordeen said. "It just doesn't work. It doesn't work."

Nordeen said the Michigan departments of Environmental Quality and Natural Resources, along with Upper Peninsula municipalities, the county board and other entities fully backed the County Road 595 project.

"And then we have the EPA who comes along and undoubtedly, the person from the EPA had an issue with the mining, there's no doubt about it. That's what this was all about," Nordeen said. "But it's not right that they can arbitrarily say no to a road that any other place in the U.P. that a road commission wanted to build a road like this, the EPA wouldn't have a problem with it. It's just this road because it's going to a mine. It's not proper. It's not right. And when the government does something that's not right, you have to stand up. That's democracy and it's an appeals process."

Nordeen said the road commission had offered to create wetlands at a ratio of 26 to 1 in comparison to acres the project would destroy, with those created acres attached to the McCormick Tract wilderness.

"There's nothing about this application or permit that should have been denied. It was arbitrarily denied. It was wrong," Nordeen said. "And it would be wrong for us to sit on our

hands and let it go without us standing up as good Americans and saying it's not right, because it's not right."

Derocha said he had additional questions including who is going to fund the building of the road, should the lawsuit prevail and the federal permits be granted. Derocha said Marquette County won't and Lundin Mining has said it won't either.

"They are absolutely in no way, shape or form connected to this, nor do they want to be," Derocha said. "They are not going to fund it and they are not going to support it."

Derocha said he wants to know where the lawsuit idea came from.

"Last week, I read in the paper the road commission would not consider a lawsuit," Derocha said. "And overnight, now I find out they are having a meeting on Martin Luther King Day, going into closed session and I'd like to see them come here to this board and (I) request that they come out and be in the public."

Heikkila said the road commission has the information and is making the decision, not the county board. He didn't want to take a position on the issue.

"I don't support the suit, I don't support that they don't sue them, it's not my decision," Heikkila said. "We appoint the road commission; we appoint the health department and those people make decisions. They have information that I don't have I don't support it either way."

Corkin said he hasn't supported the lawsuit effort, also believing the suit comes more than two years too late, after the money pledged by the mining company for County Road 595 has instead been spent to upgrade existing county roads to haul Eagle Mine ore.

"Our legislators, where were they when the DEQ could have issued this permit," Corkin asked. "Supposedly, they are saying, at least the head man, they agreed it should be issued, well why didn't the legislators and the governor's office stand up and say, 'Issue it.' No. They didn't. So, here we are, all the money spent on the existing roads."

Corkin said state Sen. Tom Casperson, R-Escanaba, has been behind the lawsuit effort. Meanwhile, he said state lawmakers "didn't raise two nickels" to fund road repairs for the state, putting the issue off for voters to decide in May.

"When you run for an office, you have a responsibility to do your job," Corkin said. "They didn't. Now, they're saying, let's sue the EPA so we can get this permit and all of a sudden they're going to find \$80 (million) to \$100 million to build this road, when we can't take care of the bridges and roads in Michigan."

Corkin called the effort a "political charade."

"For one: Senator Casperson and his aide has been in the county for the last year, on a continual basis, lobbying everybody to sue the EPA and put the pressure on the road commission to sue the EPA," Corkin said. "That's the fact of it. That's who's been leading this charge from Day 1."

Corkin was also upset with the undisclosed funding sources.

"When it comes to who is funding this, anytime anybody asks that question: 'Well, we can't disclose that. We have a way to get around this so that it can be done secretly so the general public doesn't know the dollars behind this supposedly half a million that they're going to raise to sue the EPA,'" Corkin said. "Now, when you're in public business, people have a right to know these kinds of things. There should be full disclosure of who's paying this."

Corkin said at some meetings mention was made of \$200,000 secured with funding sources unrevealed.

"Where is it coming from, a political action committee," Corkin asked. "Where? I mean, why not put it out there? This road commission and their director need to be brought in front of the whole public. Let the sun shine on them."

Nordeen told Corkin public funds would not be used for the lawsuit.

"They went out and entered into this private-public association so it would be no cost to the public," Nordeen said. "Not a dime involved and that's what they're guaranteeing. I understand that you don't like who those contributors are and I agree with you, I like to be transparent and know what's going on. But, I just heard Commissioner Derocha say he's afraid of the EPA and what they might do."

"What do you think these other people are? I understand that the people that contributed money to this fund are contractors. They are contractors that want to create jobs. They are contractors that want to make improvements. But, guess what? They're afraid of the EPA too."

Nordeen said he's proud that Marquette County is the entity that is going to stand up and say, "Enough is enough."

Alholm said she doesn't agree with Nordeen's conclusion that the financial backers are afraid.

"If we don't know the individuals, then we don't know what their motives are," Alholm said, adding that she's not taking a position on the merits of the EPA lawsuit because it hasn't been discussed before the county board.

"We don't know the merits of the case," Alholm said.

Derocha said he's "not really afraid of just about anything," but he said he believes the board has "a duty to protect and to have the best interest of Marquette County at hand."

"That's what I'm concerned about," Derocha said. "I'm concerned about the 400 jobs at Eagle or the subaquifer - that we can't disperse tailings, if that happens to be the path that they go down. I'm concerned, because that's going to hang on somebody. OK. I'm concerned about that."

Derocha said he thinks the County Road 595 issue should be between the state and the EPA, not involving a county road commission.

He said lawmakers and aides have not provided satisfactory explanations.

"Nobody's answered my questions," Derocha said. "It's a dodgeball."

John Pepin can be reached at 906-228-2500, ext. 206.